IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

OP.No. 25792 of 2002(U)

PETITIONER:

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1. GENERAL SECRETARY, COCHIN COMMERCIAL EMPLOYEES' ASSOCIATION (REG.NO.492 OF 1946), AMARAVATHI ROAD, COCHIN 1.

2. SECRETARY,COMTRUST STAFF ASSOCIATION, REG.NO.12-16 OF 1997, ANNE HALL ROAD, CALICUT - 2.

3. GENERAL SECRETARY, MERCANTILE EMPLOYEES' ASSOCIATION, REG.NO.494 OF 1946 INDIRA GANDHI ROAD, CALICUT-1.

BY ADV. SRI.P.RAMAKRISHNAN
SRI.A.JAYASANKAR

RESPONDENTS:

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1. REGIONAL JOINT LABOUR COMMISSIONER CIVIL STATION, KOZHIKODE - 673 020.

2. COMMONWEALTH TRUST (INDIA) LIMITED REPRESENTED BY ITS MANAGING DIRECTOR, SOUTH MANANCHIRA ROAD, KOZHIKODE 1.

BY SR.GOVERNMENT PLEADER SRI. P.K. RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.25792/02.

ORDER ON C.M.P.NO.43792/O2 IN O.P.NO.25792/02

DISMISSED

12.03.2007. SD/-S.SIRIJAGAN,JUDGE

APPENDIX

PETITIONERS' EXHIBITS

EXT.P1: TRUE COPY OF THE COMPLAINT DATED 23.6.2000 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT WITH COPY TO 1ST RESPONDENT.

EXT.P2: TRUE COPY OF THE NOTICE DATED 28.6.2000 FROM THE 1ST RESPONDENTS TO THE 2ND RESPONDENT AND THE PETITIONERS.

EXT.P3: TRUE COPY OF THE NOTICE DATED 5.7.2000 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT AND THE PETITIONERS.

EXT.P4: TRUE COPY OF THE COMPLAINT DATED 4.11.2000 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE COUNTER STATEMENT FILED BY THE 2ND RESPONDENT DATED 17.1.2001.

EXT.P6: TRUE COPY OF THE ORDER DATED 24.6.02 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

PA TO JUDGE.

S.SIRI JAGAN,J.

O.P.NO.25792 OF 2002

JUDGMENT

12.03.2007.

S. SIRI JAGAN, J.

O.P.NO. 25792 OF 2002

DATED THIS THE 12th DAY OF MARCH, 2007

JUDGMENT

The three Unions in an Industrial Disputes are the petitioners in this original petition. They are challenging Ext.P6 order of the 1st respondent Conciliation Officer passed under Section 33A of the Industrial Disputes Act. A dispute regarding decentralisation in the 2nd respondent management establishment was under conciliation. While conciliation proceedings was thus pending, the management transferred two employees to another unit. The petitioners alleged that this amounts to violation of Section 33(1)(a) of the Industrial Disputes Act in so far as their conditions of service have been changed without notice under Section 9A. The Conciliation Officer on consideration of the pleadings before him came to the conclusion that there was no change of conditions of service because the unions failed to aver that the transfer is not a condition of their service. The Conciliation officer has given elaborate reasons in Ext.P6 to come to the said conclusion. On a reading of the same I do not find any perversity in the findings entered into by the 1st respondent – Conciliation officer. Further even assuming that there was change of

service conditions, the only thing that the Conciliation officer can do is to conciliate that dispute also and forward his recommendation to the Government for referring an industrial dispute in respect of the transfer also. That can be got done by the Unions even otherwise by raising an industrial dispute regarding such transfer.

In the above circumstances, I do not find any merit in the original petition and accordingly the same is dismissed.

S. SIRI JAGAN, JUDGE

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